

CHAPTER 1. OVERVIEW AND AUTHORITY

1-1 Scope

- A. This handbook sets forth the policies and procedures for managing and collecting debts by the Department of Housing and Urban Development (HUD). HUD's responsibility and authority to collect debt are established by laws and regulations of the United States and its agencies, as described in Section 1-2.
- B. This handbook applies to all HUD Headquarters and Field personnel responsible for processing debts owed to HUD, including, but not necessarily limited to: action officers, claims collections officers, desk officers, loan servicing officers/specialists, and financial officers.
- C. This handbook does not cover funds that are due to program participants, as identified in Office of Inspector General (OIG) audit reports, unless such funds are subsequently determined to be due to HUD or the US Treasury.
- D. Nothing published in this Handbook precludes the disposition of any claim under statutes and regulations that apply to any particular organization or activity within HUD, including contract debts for contracts under the authority of subpart 32.6 of the Federal Acquisition Regulation (FAR).
- E. The policies in this Handbook do not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person, nor shall the failure on the part of HUD to comply with any of the provisions of this Handbook be available to any debtor as a defense.

1-2 Related Legislation, Regulations, and Guidance

A. Legislation

- 1. **Federal Claims Collection Act**, as amended, Pub. L. No. 89-508, 80 STAT. 308 (1966) (codified as amended at 31 U.S.C. §§ 951-953), which authorized agencies to collect delinquent debt;
- 2. **Debt Collection Act of 1982**, Pub. L. No. 97-365, 96 STAT. 1749 (codified at 5 U.S.C. § 5514), which expanded the Federal Government's right to use debt collection tools such as offset, credit bureau reporting and private debt collection agencies;
- 3. **Deficit Reduction Act of 1984**, which added tax refund offset as a debt collection tool;
- 4. **Chief Financial Officers Act of 1990 (CFO Act)**, Pub. L. No. 101-576, 104 STAT. 2838 (codified at 5 U.S.C. §§ 5313-315; 31 U.S.C. §§ 501 *et seq.*,

901 *et seq.*, 105, 3501 *et seq.*, 9105-106), which instituted effective financial management practices for the Federal Government and provided for the improvement of the Government's financial management, accounting, and internal control systems;

5. **Federal Debt Collection Procedures Act of 1990**, Pub. L. No. 101-647, 104 STAT. 4933 (codified at 11 U.S.C. § 523; 18 U.S.C. §§ 3142, 3552; and various sections of 28 U.S.C.), which established a uniform process through the court system for collecting debts owed the Federal Government and provides for uniform procedures for enforcing judgments to collect Federal debts;
6. **Administrative Dispute Resolution Act of 1990**, Pub. L. No. 101-552, 104 STAT. 2736 (codified at 5 U.S.C. §§ 556, 581 *et seq.*; 28 U.S.C. § 2672; 31 U.S.C. § 3711, which temporarily raised the authority of agencies to compromise, suspend, and terminate collection action to \$100,000 and gives the Attorney General the authority to increase this threshold administratively. This authority was made permanent by the Debt Collection Improvement Act of 1996;
7. **Cash Management Improvement Act Amendments of 1992**, Pub. L. No. 102-589, 106 STAT. 5133 (codified at 31 U.S.C. § 6501), which expanded the use of tax refund offset;
8. **Omnibus Budget Reconciliation Act of 1993**, as amended, 103 Pub. L. No. 66, 107 STAT. 312 (codifies at 26 U.S.C. § 6050P), which mandated that agencies, including the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration, report discharged debts to the Internal Revenue Service as income to the debtors;
9. **Department of Justice and Related Agencies Appropriation Act 1994**, Pub. L. No. 103-121, 107 STAT. 1153, which authorized the Department of Justice to charge a three percent administrative fee on amounts collected; and
10. **Debt Collection Improvement Act of 1996 (DCIA)**, Pub. L. No. 104-134, 110 STAT. 1321, 1358 (codified at 31 U.S.C. § 3701), which centralized offset and other administrative debt collection procedures at the Treasury; bars delinquent debtors from obtaining Federal loans, loan insurance, or loan guarantees; mandates credit bureau reporting; and authorizes administrative wage garnishment.

B. Regulations

1. **Treasury:** 31 C.F.R. part 285, published April 2, 1998, establishes rules for certain debt collection tools such as centralized administrative offset, cross-

servicing and administrative wage garnishment, as well as standards for barring delinquent debtors;

2. **Treasury and Justice:** Federal Claims Collections Standards (FCCS) (revisions codified at 31 C.F.R. §§ 900-904 (2000), which clarified and simplified Federal debt collection procedures and reflects changes under the DCIA and the General Accounting Office Act of 1996;
3. **Office of Personnel Management:** Salary Offset Regulations, published December 31, 1998, established rules and process for offsetting the salaries of federal employees to collect delinquent non-tax debt; and
4. **HUD:** Revised rule 24 CFR part 17, subpart C, implements the DCIA as it applies to HUD, effective December 7, 2011. This rule also provides specific HUD policy for Administrative Offset, Federal Salary Offset, and Administrative Wage Garnishment.

C. Guidance

1. **Circular A-129 (Revised)**, “Policies for Federal Credit Programs and Non-Tax Receivables,” issued in November of 2000 by the Office of Management and Budget (OMB), establishes standards and policies regarding the classification of debt for accounting purposes.
2. **Managing Federal Receivables**, produced in May of 2005 by the Financial Management Service of the Department of the Treasury, provides guidance for Federal agencies. Chapters 6 and 7 are particularly applicable to this topic. See <http://www.fms.treas.gov/debt/MFR/ManagingFederalReceivables.pdf>.

1-3 **FHA and Ginnie Mae**

- A. **Within HUD there are two organizations** that have separate statutory authority to collect debts – the Federal Housing Administration (FHA) and the Government National Mortgage Association (Ginnie Mae).
- B. **Debt collection by FHA** is regulated by HUD Handbook 4740.2 REV-3, *Title I and Other Debt Collection Guidance* (Handbook 4740.2), for the Financial Operations Center (FOC) located in Albany, NY. Some FHA debts are also serviced at the Single Family National Servicing Center (NSC), located in Oklahoma City, OK. While the guidelines contained in this document (Handbook 1900.25 REV-4) apply to the Department generally, Handbook 4740.2 provides guidance that specifically applies to FHA debt assigned to the FOC.
- C. **As a Government-owned corporation, Ginnie Mae** has separate legal authority to collect debts under its authorizing legislation. Ginnie Mae collects debts incurred by borrowers with FHA-approved loans serviced by Ginnie Mae. There are FHA guidelines determining how those debts are to be collected, and Ginnie Mae adheres

to those guidelines. For delinquent debts referred to Treasury, Ginnie Mae uses similar procedures as those used by FHA as found in HUD Handbook 4740.2 and which are also consistent with this Handbook (Handbook 1900.25 REV-4).

1-4 Roles and Responsibilities

A. Departmental Claims Collection Officer (DCCO)

The DCCO's responsibilities include developing and implementing the claims collection system and reporting and adjudicating on claims received from operating accountants and debt collection staff. Specific duties performed by the DCCO include:

1. Establishing and maintaining policies and procedures for collection of debts and claims owed to HUD or owed by HUD employees to the federal government.
2. Compromising, suspending, or terminating claims not exceeding \$100,000, exclusive of interest, penalties, and administrative costs.
3. Approving suspension or revocation of eligibility for loans and loan guarantees, licenses, permits, or privileges.
4. Forwarding claims in excess of \$100,000 referred from program officials to the Department of Justice (DOJ), with specific recommendations to compromise, terminate, or litigate the claims.
5. Obtaining consent from DOJ to process actions on uncollected claims exceeding \$100,000 exclusive of interest, penalties, and administrative costs.
6. Reporting to the Internal Revenue Service (IRS) the amount of a claim that remains uncollectible after the DCCO has compromised or terminated a claim.
7. Assuring that the Office of the Chief Financial Officer's Accounting Analysis and Monitoring Division (AMAD) and the Fort Worth Accounting Center (FWAC) and applicable program offices conduct an annual evaluation of allowance for loss rates, and other significant estimates currently in use for accounting for receivables, in order to assure appropriateness, in accordance with policies and procedures developed by the OCFO.
8. Acting as a liaison between the accounting office and program office debt personnel.
9. Developing and implementing a training program for debt/claims collection personnel at Headquarters and in Field Offices.
10. Providing – to appropriate personnel as necessary – debt and claims information and changes in personnel and regulations, including changes in U.S. Treasury interest rates.

11. Reconciling, on a quarterly basis, the claims inventory to the accounting records to ensure that receivables have been established and current transactions reflected.
12. Reporting to the CFO's Audit Liaison Division the status of specific OIG recommendations that have been referred for final collection and/or write-off of remaining balances.
13. Providing quarterly and fiscal year-end reporting to the Office of the Chief Financial Officer.

B. Claims Officer

1. The Claims Officer is a staff member designated by the DCCO to be responsible for developing and implementing the claims collection system and for reporting and adjudicating claims. The Claims Officer is also responsible for ensuring that all debt/claims collection personnel are trained. Reference herein to the DCCO incorporates reference to the Claims Officer.
2. Due to its independent statutory authority, a Claims Officer has been appointed for all FHA debt managed at the Albany Financial Operations Center. An FHA Action Official is located at the Single Family National Servicing Center in Oklahoma City for servicing some FHA debts.
3. While Ginnie Mae also has independent statutory authority, the volume of debt is low, and it is managed through the Ginnie Mae Office of Issuer and Portfolio Management.
4. HUD's debts related to Section 235 and Section 236 programs are managed by AMAD. All remaining debt other than FHA and Ginnie Mae is managed by the FWAC whose director serves as a Claims Officer.

C. Action Official

The Action Official is a program official with fiscal responsibility for any program that may result in debt owed to HUD. Initial responsibility for collecting debts due HUD is vested in the Action Official. In cases where the debt is related to an audit recommendation, this Action Official may also be an Action Official as separately recognized in HUD Handbook 2000.06 REV-4, *Audits Management System (AMS)*. In such cases, both handbooks apply and must be used concurrently, and it is a procedural violation to fail to do so. If the efforts of the Action Official and follow-up letters are unsuccessful, the Action Official forwards the debt file to the Claims Officer for further collection action. Specific duties of the Action Official include:

1. Carefully monitoring program, grant, project, or activity for debts to HUD, in accordance with procedures prescribed by FAR 32.6 (available at: https://www.acquisition.gov/far/current/html/Subpart%2032_6.html) and the

Contract Disputes Act of 1978 (available at: <https://www.acquisition.gov/far/current/html/Subpart%2033.2.html>), as appropriate;

2. Examining each case for indication of fraud, false claim, or misrepresentation and promptly reporting such indications to the Office of Inspector General (OIG);
3. Reviewing and assessing program audit reports, findings, and recommendations that identify questioned or disallowed costs and are also identified by the auditor to be due to HUD (and not to the program participant);
4. Sending the initial Demand Letter requesting payment of debt;
5. Providing appropriate documentation to the FWAC to establish an account receivable on all debts due to HUD;
6. Maintaining a debt file;
7. Notifying the FWAC of changes in debt status within 30 days so that proper adjustments are made to the receivables;
8. Responding promptly to FWAC requests for information or assistance;
9. Telephoning and personally contacting the debtor to determine debt collectability;
10. Implementing installment repayment agreements for collection where a full single repayment cannot be accomplished;
11. Monitoring the effectiveness of initial debt collection efforts;
12. Ensuring that collected funds are processed in accordance with HUD Handbook 1911.1 REV-05, *Handling and Protecting Cash and Other Negotiable Instruments*;
13. Coordinating actions taken on debts arising from contracts with the Contracting Officer;
14. Recommending collection by offset, when appropriate;
15. Sending the debt file to the Claims Officer for claim establishment when initial collection attempts prove unsuccessful (for OIG recommendations, the Action Official must also meet the requirements of HUD Handbook 2000.06 REV-4, *Audits Management System*);
16. Working with the DCCO to analyze causes of delinquencies and defaults; and

17. Evaluating each Field Office's application of policies and procedures relating to its debt collection activities to ensure they meet the requirements of the law and this handbook.

1-5 Exclusions

This Handbook applies to debts owed to the United States, including loans, fines, penalties, overpayments, and fees, but does not apply to the collection of Federal tax debts, debts owed by Federal agencies, or debts owed by foreign countries. For debts arising in whole or in part on conduct in violation of antitrust laws or involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or a party having an interest in the claim, only the Department of Justice has authority to compromise, suspend, or terminate action. When such debts are referred back to HUD for collection, guidelines and standards relating to the administrative collection of such claims do apply, but only as authorized by the Department of Justice. Funds due to program participants are outside the scope of this Handbook, except when such funds are subsequently determined to be due to HUD or to the US Treasury. Debts arising from the default of non-recourse loans may not be pursued under debt collection regulations, but are addressed through foreclosure and the sale of collateral. As such, these loans are excluded from the scope of this Handbook.